

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

RICHARD JAMES JOHNSON §  
VS. § CIVIL ACTION NO. 9:18-CV-162  
ANGELINA COUNTY D.A. OFFICE, *et al.*, §

ORDER OVERRULING OBJECTIONS AND ADOPTING THE  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Richard James Johnson, an inmate confined at the Allred Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against the following defendants: Angelina County D.A. Office, Angelina County D.A., Court of Criminal Appeals, Texas Bar Association, and the Angelina County Defense Attorney Winfred III.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends plaintiff's application to proceed *in forma pauperis* be denied pursuant to 28 U.S.C. § 1915(g) as no allegations of imminent danger have been made.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. Plaintiff filed objections the Report and Recommendation of United States Magistrate Judge. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

Plaintiff objects that the time to pay the filing fee is insufficient arguing that he is indigent and imprisoned. Plaintiff also states he is under imminent danger but provides no specifics, referencing civil actions filed in other districts. Plaintiff's allegations in the present suit do not involve allegations of imminent danger. Plaintiff sues the Angelina County District Attorney's Office, Angelina County, the Texas Bar Association, the Court of Criminal Appeals and the

Angelina County defense attorney alleging due process violations and denial of access to courts. Specifically, plaintiff complains that he is being denied his trial transcript. Plaintiff clearly makes no allegation of imminent danger in this action.

As outlined in the Report and Recommendation, plaintiff is a serial litigant and has incurred more than 3 strikes. As such, 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints and states:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [in forma pauperis] . . . if the prisoner has, on three or more occasions . . . brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff has yet to pay the full \$400.00 filing fee.<sup>1</sup>

#### ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. Plaintiff has thirty (30) days from entry below to pay the full \$400.00 filing fee. Plaintiff is advised that no further extensions will be granted.

So **ORDERED** and **SIGNED** January 7, 2019.



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Ron Clark, Senior District Judge

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<sup>1</sup>Plaintiff has paid \$70.08 to date.